IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

CHRISTOPHER WILLIAM BRUCE Petitioner, vs. STATE OF IOWA, Respondent.	4:16-cv-00492-RP ORDER

Christopher Bruce brought this pro se petition for habeas corpus relief under 28 U.S.C. § 2254. Because the Court could not identify the state conviction being challenged or the claims being made, the Court directed Petitioner to amend. Petitioner has now done so.

Bruce challenges his state court conviction in *State v. Bruce*, FECR292312 (Iowa Dist. Ct. Polk County) ("Criminal Case"). The Court takes judicial notice of the proceedings in that case. A jury convicted Bruce of stalking and harassment in the first degree, and the state trial court sentenced him to time in jail plus two years probation. *See id.*, Sentencing Order (May 4, 2016) and Order Nunc Pro Tunc (June 1, 2016). Bruce then violated the terms of probation and was ordered to serve 68 additional days on each count. *Id.* Order (August 17, 2016).

In his petition, Bruce alleges he is being unlawfully detained at the Polk County Jail in Des Moines, Iowa. He also states he "chose to bypass any remaining possibilities on the state level and am now praying the District Federal Court to address this and all forthcoming cases to be filed immediately following this defendant's release, whether soon by your approval or following my release on January 1, 2017." Amended Petition 5, ECF No. 4-2 (spelling, grammar, punctuation in original).

Before a petitioner may obtain federal habeas corpus review, he must "exhaust" his federal claims in the appropriate court, see 28 U.S.C. § 2254(b), (c), giving the state courts an opportunity to decide the merits of the constitutional issues raised. *See Kennedy v. Delo*, 959 F.2d 112, 115 (8th Cir.), *cert. denied*, 506 U.S. 857 (1992). "When a state court remedy is available for a state prisoner's unexhausted claim, the federal habeas court must defer action until the claim is exhausted, either by dismissing the federal petition without prejudice or by using the 'stay and abeyance' procedure described in *Rhines v. Weber*, 544 U.S. 269 (2005)[1]." *Armstrong v. Iowa*, 418 F.3d 924, 926 (8th Cir. 2005).

From the face of the petition and from the state court documents, it appears Petitioner has not yet exhausted his state court remedies, including direct appeal and postconviction relief of his criminal case. Consequently, this petition must be dismissed without prejudice to Bruce renewing his petition after he has satisfied the exhaustion requirement.

IT IS SO ORDERED.

Dated this ___5th___ day of October 2016.

ROBERT W. PRATT, Judge
U.S. DISTRICT COURT

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[1] Under *Rhines*, a stay is available only where "there was good cause for the petitioner's failure to exhaust his claims first in state court." *Rhines*, 544 U.S. at 277.